

1 WHEREAS the United States removed Plaintiff's action to federal court on November 8, 2022
2 (ECF No. 1);

3 WHEREAS on November 15, 2022 the United States filed a motion to dismiss Plaintiff's
4 complaint (ECF No. 6), which remains pending before the Court with a hearing date of April 20, 2023
5 (ECF No. 26);

6 WHEREAS on December 21, 2022 the Clerk of Court issued a notice setting a Case
7 Management Conference on February 14, 2023 with a Case Management Conference Statement due on
8 February 7, 2023 (ECF No. 19);

9
10 Pursuant to Civil Local Rules 6-2 and 7-12, and subject to the Court's approval, the parties
11 stipulate, and respectfully request, as follows:

12 1. The initial Case Management Conference on February 14, 2023, and corresponding CMC
13 statement deadline of February 7, 2023, shall be taken off calendar and rescheduled at the Court's
14 discretion after the Court has resolved Defendant United States' pending Motion to Dismiss (ECF No.
15 6).

16 2. As requested by Plaintiff, Defendant United States will serve on Plaintiff by regular mail
17 a copy of the government's Motion to Dismiss (ECF No. 6), which had previously been served by
18 certified mail.

19 **IT IS SO STIPULATED.**

20
21 Dated: January 31, 2023

22 By: /s/ Sidney Theodore Scarlett
23 Sidney Theodore Scarlett
24 Plaintiff

25 Dated: January 31, 2023

26 By: /s/ Patrick Coughlin
27 Patrick Coughlin
28 Defendant

Dated: January 31, 2023

Respectfully submitted,

STEPHANIE M. HINDS

STIPULATION AND ORDER REGARDING CONTINUANCE OF CMC DEADLINES
4:22-cv-06992-HSG

United States Attorney

/s/ Kenneth W. Brakebill

Kenneth Brakebill

Assistant United States Attorney

Counsel for the United States of
America

ECF ATTESTATION

In accordance with Civil Local Rule 5-1(h)(3), I, Kenneth Brakebill, attest that I have obtained concurrence in the filing of this document from all other signatories listed here.

DECLARATION OF KENNETH BRAKEBILL

I, Kenneth Brakebill, declare and state as follows:

1. I am an Assistant United States Attorney for the Northern District of California and counsel for the United States of America in this action. I have personal knowledge of the matters set forth below, except those matters that are based on information and belief, which I believe to be true, and could and would testify competently to them if called to do so.

2. I submit this declaration in support of the Stipulation and [Proposed] Order Regarding Continuance of Case Management Deadlines pursuant to Civil Local Rules 6-2 and 7-12.

3. On January 30, 2023 I reached out by telephone to Plaintiff Scarlett and Defendant Coughlin about stipulating to a continuance of the two currently pending case management deadlines (a February 7, 2023 Case Management Statement and a February 14, 2023 initial Case Management Conference) given that there is a pending motion to dismiss. In separate conversations with Plaintiff Scarlett and Defendant Coughlin, the parties agreed to submit a stipulation seeking such a continuance. Plaintiff Scarlett and Defendant Coughlin both gave me verbal authorization to submit the stipulation, as recorded herein, whereby the initial Case Management Conference on February 14, 2023, and corresponding CMC statement deadline of February 7, 2023, would be taken off calendar and rescheduled at the Court's discretion after the Court has resolved Defendant United States' pending motion to dismiss.

4. The intent of the stipulation to continue the Case Management Conference dates is to foster efficiency and judicial economy by deferring the case management deadlines until after the Court has had the opportunity to rule on the government's pending motion to dismiss and determine what, if any, part of this action shall remain in federal court.

5. Defendant United States' motion to dismiss was filed originally filed on November 15, 2022. ECF No. 6. On December 27, 2022, Defendant United States re-noticed its motion for hearing on April 20, 2023. ECF No. 26.

6. In my conversation with Plaintiff Scarlett, Plaintiff requested that the parties include in the stipulation that Defendant United States will serve on Plaintiff by regular mail a copy of the original

1 Motion to Dismiss (ECF No. 6), which had previously been served by certified mail (ECF No. 7).
2 Defendant United States agreed. Defendant United States will also serve by regular mail a copy of (1)
3 Defendant United States' re-noticed motion for hearing on April 20, 2023 (ECF No. 26) and (2) the
4 ECF-filed version of this stipulation and [proposed] order.

5 10. There was one prior time modification in this case when the Court extended the briefing
6 and hearing schedule on Defendant's motion to dismiss upon Plaintiff's non-response. ECF No. 11.

7
8 I declare under penalty of perjury under the laws of the United States of America that the
9 foregoing is true and correct.

10 Dated: January 31, 2023

/s/ Kenneth Brakebill

Kenneth Brakebill

Assistant United States Attorney


ORDER

Pursuant to stipulation, IT IS SO ORDERED that:

1. The initial Case Management Conference on February 14, 2023, and corresponding CMC statement deadline of February 7, 2023, shall be taken off calendar and rescheduled at the Court's discretion after the Court has resolved Defendant United States' pending Motion to Dismiss (ECF No. 6).

2. At Plaintiff's request, Defendant United States will serve on Plaintiff by regular mail a copy of the government's Motion to Dismiss (ECF No. 6), which had previously been served by certified mail.

DATED: 1/32/2023


HON. HAYWOOD S. GILLIAM, JR.
United States District Judge